



Documentation Standard for USACE Pre-Construction Notification (PCN)

This documentation standard (DS) is used by project sponsors to prepare a Pre-Construction Notification (PCN) for the U.S. Army Corps of Engineers (USACE). The PCN must include sufficient detail for the USACE to verify that the applicant meets Nationwide Permit (NWP) program permitting requirements under Section 404 of the Clean Water Act (CWA). The purpose and goal of Section 404 of the CWA is to restore and/or maintain the chemical, physical, and biological integrity of the nation's waters. This goal is achieved through a program administered by the USACE Chief of Engineers, Regulatory staff, using guidelines developed by the Administrator of the EPA, which require a USACE permit prior to discharge of dredged and/or fill material into waters of the U.S. (WOTUS), including wetlands (33 CFR 323).

Organize the PCN using the sections outlined in this DS, below. Retain in the project file any field notes, photographs, and other supporting data and documents produced in support of the PCN package. As a component of any PCN being submitted to the USACE, a cover letter is required. Although the PCN may be prepared by a consultant and reviewed by the Environmental Affairs Division (ENV), the TxDOT district is the permit applicant, as well as the party responsible for conducting all necessary coordination with the USACE and compliance with permitting requirements.

The PCN must comply with the standards outlined in the TxDOT Brand Guidelines and Publications Style Guide. For questions about or assistance applying these standards, contact the TxDOT district representative or ENV's Natural Resources Management Section at env-water@txdot.gov.

I. Cover Letter

The PCN cover letter must be written on TxDOT letterhead and signed by the district engineer. The cover letter must introduce the proposed project and list all components of the PCN (identified as attachments to the cover letter). Each PCN component/attachment must include a cover sheet, and if any are not applicable, they must be removed and the remaining components/attachments renumbered accordingly. Please refer to Appendix A of this DS for an example of a TxDOT PCN cover letter and Appendix B for associated example cover sheets. The following elements must be included in the cover letter:

- The assigned SWG Project Number/Action ID, if known
- Statement indicating whether a pre-application meeting was completed for this project and, if so, indicating the date of the meeting and USACE-assigned project manager
- Statement indicating whether the applicant is pursuing a Preliminary Jurisdictional Determination (PJD), Approved Jurisdictional Determination (AJD), joint PJD/AJD, or No Jurisdictional Determination (NJD), including the level of detail sufficient to differentiate between the PJD and AJD areas, if requesting a joint PJD/AJD
- If a JD has already been requested/received, a statement referencing the SWG Project Number/Action ID, type of JD requested/received, and status of JD
- Type of Applicant (i.e., federal or non-federal) for which TxDOT is seeking authorization, based upon funding source and/or NEPA assignment from FHWA (of the lack of NEPA assignment)
- If TxDOT is a federal applicant because the project is being cleared under NEPA assignment, the following statement must be included in the PCN cover letter: "The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of



Understanding dated December 9, 2019 and executed by the Federal Highways Administration (FHWA) and TxDOT.”

- Statement regarding the status of environmental clearance for the project, regardless of funding source, and the date of administrative approval by TxDOT, if applicable
- Statement indicating whether or not TxDOT is requesting an expedited review under the Water Resources Development Act (WRDA) Section 214 funding agreement process
- If TxDOT is requesting expedited review under the WRDA Section 214 funding agreement, include the date by which the district is requesting the permit decision
- List of all PCN components (identified as attachments to the cover letter)

II. Attachment I – Application Materials

Application materials consist of the following templates, forms, and format:

- 1) For all NWP 14 PCNs in the USACE Galveston District (SWG), use the Template: USACE Galveston District Nationwide Permit (NWP) 14 Pre-Construction Notification (PCN) found on TxDOT’s Environmental Compliance Toolkits page under [Natural Resources](#).
- 2) For all PCNs in the USACE Fort Worth District (SWF), use the NWP templates found on the SWF website at <https://www.swf.usace.army.mil/Missions/Regulatory/Permitting/Application-Submittal-Forms/>. If there is not a template available on their website that is specific to the NWP you are requesting a verification for, simply use the template designed for NWP 14, cross out the number 14, and handwrite the applicable NWP number as a replacement to the number 14.
- 3) For all non-NWP 14 PCNs in the USACE-SWG and all PCNs in the USACE Tulsa District (SWT) and USACE Albuquerque District (SPA), use of the following format/forms are recommended in the order presented:
 - a) ENG Form 6082, available at <https://www.swt.usace.army.mil/Missions/Regulatory/Applications/>
 - b) a standard letter format (similar to a cover letter, as described above, along with the associated attachments),
 - c) ENG Form 4345, for which the form itself and associated instructions are available via the following respective links:
<https://www.swt.usace.army.mil/Missions/Regulatory/Applications/>
<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>

When requesting a NWP verification, use a template or form and complete per the included instructions. Alternately, use a standard letter format by completing the cover letter and associated attachments, per this DS, omitting Attachment I – Application Materials. In all cases, when using one of the aforementioned templates, forms, or format, the following stipulations must be adhered to when completing the PCN:

- The project must meet the conditions and requirements of the NWP for which the verification is being requested, including those requirements listed as general and regional conditions.
- The applicant’s name must be that of the individual District Engineer, the title must be identified as “District Engineer,” and the company must be identified as the TxDOT district applying for authorization (i.e., the applicant) and presented in the following format: “Texas Department of Transportation – [Example] District.”



- When identifying the property owner(s), TxDOT may refer to a list of property owners (in table format) in Attachment 2 if the project has more than one property owner.
- The project location must include the legal description (i.e., latitude/longitude) for both the starting and ending locations of the project, if applicable. Otherwise, it must include the legal description for the center point of the project.
- For projects with multiple single and complete crossings, denote that there are multiple crossings and ensure that the corresponding Section 404/10 Impacts Table is completed and included as Attachment 5.
- Ensure that any reason for discharge is consistent with the purpose and need statement presented throughout all applicable components of the PCN.
- Ensure that any avoidance, minimization, and compensation details are consistent with the attached mitigation plan, if applicable.

III. Attachment 2 - List of Current Property Owners

The list of current property owners, if included as Attachment 2, must be presented in table format and include the following information from the County Appraisal District:

- County
- Owner Name
- Parcel ID
- Legal Description
- Street/Mailing Address

IV. Attachment 3 – Waters of the U.S. (WOTUS) Delineation Report

The WOTUS Delineation Report must use and adhere to the Documentation Standard for Waters of the U.S. Delineation Report and associated Template: Waters of the U.S. Delineation Report found on TxDOT’s Environmental Compliance Toolkits page under [Natural Resources – Water Resources](#). All delineation work recorded in the report must be performed by a qualified environmental professional in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual and applicable regional supplement(s) to the manual. Delineations of streams and other waterbodies must adhere to the protocols provided in the [Regulatory Guidance Letter 05-05 for Ordinary High Water Mark Identification](#).

All USACE wetland determination data sheets must be completely filled out and attached to the report.

All Global Positioning System (GPS) and Geographic Information System (GIS) data must follow the Galveston SOP; [Recording and Submitting Jurisdictional Delineations Using GPS and GIS Tools and Technologies](#) dated 2016.



V. Attachment 4 - Site Photographs

Site photographs must include sufficient views and descriptive text to fully describe the project and existing environment to the USACE reviewer. Specifically, this attachment must include on-the-ground photo(s) of each aquatic feature, which clearly depict the aquatic feature itself, surrounding vegetation community, and any component of the project area that is pertinent to the USACE's review. The direction each photograph was taken must be indicated in the description of the photograph/caption and/or with an arrow on an associated figure (see Item VIII, Attachment 7, below). All photographs must be sized to fit one or more on 8.5x11-inch paper.

VI. Attachment 5 – Section 404/10 Impacts Table

The Section 404/10 Impacts Table must detail the proposed impacts on WOTUS in acres for all aquatic resources and in linear feet for streams, and identify the impact on each individual waterbody. For projects with multiple single and complete crossings, the table must indicate which individual waterbodies are combined to constitute each single and complete crossing (for purposes of 404/10 permitting), as well as the cumulative impact totals on those single and complete crossings, and which would and would not require notification as outlined in General Condition 32. The Section 404/10 Impacts Table, along with the Instructions – Preparing a Section 404/10 Impacts Table, can be found on TxDOT's Environmental Compliance Toolkits page under [Natural Resources – Water Resources](#). When attaching the Section 404/10 Impacts Table to the PCN, do not include the associated instructions.

VII. Attachment 6 - Jurisdictional Determination (JD) Request Form

The PCN must include a JD request, unless a JD has already been requested/received for the project, in which case the JD letter and associated action ID (e.g., USACE project/permit number) must be included in the PCN cover letter, and the type of JD requested/received identified in the PCN cover letter.

A JD request attached to the PCN must include documentation sufficient to support the determination requested. JDs that may be requested include the following:

- Preliminary JD (PJD) – TxDOT's most commonly requested JD; typically requested when 1) a waterbody is believed to be jurisdictional **or** 2) a waterbody is believed to be potentially non-jurisdictional but having the USACE make that determination would not save TxDOT time or money (e.g., in the form of mitigation)
- Approved JD (AJD) – Typically requested when 1) a waterbody is believed to be non-jurisdictional **and** 2) having the USACE make that non-jurisdictional determination would save TxDOT money (e.g., in the form of mitigation)
- Joint PJD/AJD – Typically requested when 1) it is appropriate to request a PJD for one portion of the project area and an AJD for the other portion **or** 2) TxDOT has partial right-of-entry (ROE) to the project area, where it is appropriate to request an AJD, and does not have ROE to the other portion of the project, where it will save time to request a PJD
- No JD – Typically requested in SWF in association with waterbodies that are clearly non-jurisdictional (e.g., such as a stock pond)



According to the Special Public Notice on Jurisdictional Determinations published by SWG on January 11, 2017, the following applies to PJD and AJD requests:

Preliminary Jurisdictional Determinations: PJDs document the location and boundaries of all aquatic features within a project area and assume that all aquatic features are jurisdictional. PJDs may not be appealed and do not expire; however, they are valid only in response to a specific requested action. PJDs treat all potentially jurisdictional aquatic resources within the project area as jurisdictional and are used to determine appropriate compensatory mitigation, if necessary. PJDs cannot be used to determine non-jurisdictional status of any waters within the project area.

Approved Jurisdictional Determinations: AJDs document the presence or absence of jurisdictional waters and wetlands. AJDs are considered final federal agency actions, and they are appealable. AJDs may require coordination with the EPA, and they remain valid for five (5) years from the date of finalized notification. AJDs are posted on the SWG website, as well as on EPA's interactive map of AJDs located at <https://watersgeo.epa.gov/cwa/CWA-JDs/>.

The JD forms for SWG, SWT, and SPA can be found here as Appendices 1 and 2 of RGL 16-01: <https://www.spn.usace.army.mil/Portals/68/docs/regulatory/resources/RGL/RGL16-01.pdf>.

The JD forms for SWF can be found here:

<https://www.swf.usace.army.mil/Missions/Regulatory/Permitting/Application-Submittal-Forms/>

If the project would avoid any features within the project area, a drawing indicating the "limits of disturbance" and identifying impacted aquatic features within, and non-impacted aquatic features outside of, those limits of disturbance must be included with the applicable JD form.

An itemization of the waterbodies, associated aquatic resource type, and potential jurisdiction for each waterbody must be included with the applicable JD form. For ease and consistency, the Section 404/10 Impacts Table must serve as this itemization. Because the Section 404/10 Impacts Table is already being submitted as Attachment 5 to the PCN, it must be referred to in the JD request form in lieu of being included a second time in this attachment.

VIII. Attachment 7 - Drawings/Figures

Included drawings/figures must be provided on 8.5 x 11-inch paper. They must be fully legible and have all map features clearly identified when viewed and/or printed in black and white. They must each include a title box, legend, and scale. The title box must contain the project name, project CSJ, USACE project number (if available), figure number, figure name, figure date, and sheet number (if applicable). The legend must include all symbols or other identifiers (e.g., color, shading, etc.) depicting all relevant map features that are not labeled on the map itself. The following figures must adhere to the additional requirements listed:

- **Vicinity map** – The vicinity map must include the following:
 1. Identifiable landmarks (e.g., county, city, named waterbodies, etc.) that ensure the project can be easily located on another map or on the ground
 2. Latitude and longitude of the project location
 3. North arrow
 4. Names of all landmarks, major roadways, and all referenced features



5. Project area
 6. Identified areas where ROE is pending, if applicable
 7. Locations of all waterbodies listed in the impact table
 8. Separation between PJD and AJD areas and/or identification of No JD features, if requesting a joint PJD/AJD and/or No JD, respectively
- **Plan view(s)** – The plan view(s) must include the following:
 1. Project area, as well as detail panel(s), if necessary
 2. Lines denoting the location of each cross-section
 3. Locations of all waterbodies listed in the impacts table, as well as each associated impact in acres and/or linear feet, and/or cubic yards of excavation/fill
 4. North arrow
 5. Aerial background images, if used, that do not obscure identified features
 - **Elevation and/or cross-section view(s)** – For each type of unavoidable impact (i.e., acres, linear feet, and/or cubic yards of excavation/fill), a typical cross-section view map should be included to illustrate the amount of fill within potentially jurisdictional WOTUS. The map(s) must include the following:
 1. Project boundaries
 2. Any waterbodies that are found at the location
 3. Labels for each feature not identified in the legend
 4. Water elevation, if applicable
 5. Existing and proposed ground levels
 6. Dimensions of the proposed impacts in acres and/or linear feet, and/or cubic yards of excavation/fill

IX. Attachment 8 - Threatened and Endangered Species Documentation

This attachment must include 1) TxDOT's Species Analysis Spreadsheet that provides effect/take determinations for federally listed threatened and endangered species and is available on the TxDOT Environmental Compliance Toolkits webpage under [Natural Resources - State and Federal Protected Species](#), as well as 2) any agency consultation documentation associated with compliance with the Endangered Species Act (ESA). For federal projects that may affect listed species, this consultation documentation must include the Biological Evaluation for informal consultations or Biological Assessment for formal consultations and/or the section 7 concurrence letter/Biological Opinion.

This attachment must also include any pre-application meeting documentation and/or consultation documentation with federal agencies (i.e., U.S. Fish and Wildlife Service and/or National Marine Fisheries Service). Per General Condition 18 for Endangered Species:

“No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed.”



X. Attachment 9 - Historic Properties Documentation

This attachment must include 1) documentation that provides details on the completed cultural resources assessment, as well as 2) any agency coordination documentation associated with compliance with Section 106 of the National Historic Preservation Act and/or Antiquities Code of Texas. For federal projects, this must include documentation of Section 106 consultation with the State Historic Preservation Office (SHPO) carried out under the TxDOT and SHPO programmatic agreement and according to the appropriate appendix. For non-federal projects with potential to affect historic properties listed on the National Register of Historic Places (NRHP), this must include documentation of coordination with the Texas Historical Commission (THC). For non-federal projects without the potential to affect historic properties on the NRHP, this need not include documentation of coordination with the THC, because coordination is unnecessary. Rather, it must include documentation that illustrates no potential to affect historic properties.

This attachment must also include any applicable pre-application meeting documentation and/or consultation documentation with federal, state, and/or tribal agencies (i.e., SHPO, THC, and/or local or affected Tribal governments, respectively.) Per General Conditions 20 for Historic Properties:

“In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.”

XI. Attachment 10 - Section 401 Tier 1 Water Quality Certification (Optional)

TxDOT complies with Section 401 of the Clean Water Act by implementing TCEQ’s conditions for NHPs. Accordingly, this attachment is optional and may include the completed Attachment 2 (checklist) of the TCEQ 401 Water Quality Certification Best Management Practices (BMPs) for Nationwide Permits available at https://www.tceq.texas.gov/permitting/401certification/401certification_nationwide.html, which details the use of soil erosion control, sediment control, and post-construction total suspended solids (TSS) control measures (collectively, BMPs) for 401 water quality certification under use of a NWP.

XII. Attachment 11 - Texas Coastal Management Program Consistency Statement (if Applicable)

This attachment is applicable only to those projects located within the Coastal Zone Boundary, as depicted via Shapefile and KMZ found on the Texas General Land Office (GLO) website at <http://www.glo.texas.gov/land/land-management/gis/index.html>. If applicable, include a completed TCMP Consistency Statement form that can be found on the [Texas GLO website for coastal management forms](#).

For more information, please see the Coastal Zone Management and Texas Coastal Management Program chapter of TxDOT’s Environmental Handbook for Water Resources, available in TxDOT’s Environmental Compliance Toolkits under Natural Resources – Water Resources.



XII. Attachment 12 – Waters of the U.S. (WOTUS) Conditional/Functional Assessment and Mitigation Plan (if Applicable)

This attachment is applicable only to those projects that require mitigation and, of those, only projects that do not have access to the appropriate number and type of available credits from a legacy bank.

If applicable, the following must be included with the PCN:

1. WOTUS conditional/functional assessment (in report form) suitable for use in determining the best value mitigation option according to one or both of the following standard operating procedures, available in TxDOT's Environmental Compliance Toolkits under Natural Resources – Water Resources:
 - a. ENV's Standard Operating Procedure for Acquiring and/or Purchasing Section 404 Compensatory Mitigation Credits
 - b. ENV's Standard Operating Procedure For Conducting Section 404 Permittee Responsible Mitigation (in preparation)
2. Mitigation plan

The WOTUS functional/conditional assessment must be performed and reported according to the appropriate, USACE district-specific procedure/guidance for the applicable assessment methodology/ies. The assessment report must include a discussion of the existing conditions, the methodologies used for determining WOTUS condition/function, the results of the assessment, and a conclusion that summarizes the findings.

The mitigation plan must include a discussion on the proposed compensatory mitigation strategy. Proposed mitigation must follow the [U.S. EPA and USACE's 2008 Compensatory Mitigation for Losses of Aquatic Resources; Final Rule](#).

XIII. Appendices

Included in this DS are the following two appendices that provide an example cover letter and example cover sheets.

- Appendix A - Example Cover Letter
- Appendix B - Example Cover Sheets



Appendix A

Example Cover Letter



ADDRESS | CITY, STATE ZIP | MAIN PHONE NUMBER | WWW.TXDOT.GOV

October 2, 2019

Mr. Mark Garza
Regulatory Division
Galveston District (SWG)
U.S. Army Corps of Engineers
2000 Fort Point Road
Galveston, Texas 77550

Re: Pre-Construction Notification for NWP 14 - **SWG-2019-12345** - Ocean Drive Widening Project (CSJ 1234-56-789) in Coastal County, Texas.

Dear Mr. Garza:

Texas Department of Transportation (TXDOT) - Houston District is submitting this Nationwide Permit (NWP) 14 Pre-Construction Notification (PCN) with attachments for the Ocean Drive Widening Project on a 5.56-mile-long section of Ocean Drive in Coastal County, Texas. With the PCN, TxDOT is submitting a request for an Approved Jurisdictional Determination (AJD) for the waterbodies/wetlands located within the roadway right-of-way (ROW).

The project was presented to Mr. Mark Garza during a pre-application meeting on September 16, 2019, at the USACE Galveston District office. The project is anticipated to receive CE-level environmental clearance. It has a Letter of Authority (LOA) of December 5, 2019 and a scheduled let date of January 5, 2020.

TxDOT is submitting this PCN and AJD request as a federal applicant¹ and for expedited review under the Agreement between The United States Army Corps of Engineers, Galveston District and the Texas Department of Transportation for the Provision of Funding to Expedite Reviews of Transportation Projects, dated October 9, 2015 (214 Agreement). Per the 214 Agreement, please let TxDOT know within 10 days 1) that the submittal is complete, or 2) what is needed to complete the submittal via an additional information (AI) request. TxDOT is requesting a permit decision by July 3, 2019. If there is a workload or other issue that could preclude SWG from adhering to the requested decision date, please contact TxDOT's 214 point-of-contact

¹ [Include only if submitting as a federal applicant; otherwise, revise to read "non-federal applicant" and omit this entire footnote.] The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by the Federal Highway Administration (FHWA) and TxDOT.



Mr. Mark Garza

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October 2, 2019

(POC) upon receipt of this submittal to discuss potential re-ordering of TxDOT priorities that may be appropriate and/or necessary to accommodate this request.

The PCN includes the following documentation as attachments to this cover letter:

- Attachment 1 – USACE Galveston District Nationwide Permit (NWP) 14 Pre-Construction Notification (PCN)
- Attachment 2 – List of Current Property Owners
- Attachment 3 – WOTUS Delineation Report
- Attachment 4 – Site Photographs
- Attachment 5 – Section 404/10 Impacts Table
- Attachment 6 – JD Request Form
- Attachment 7 – Drawings/Figures
- Attachment 8 – Threatened and Endangered Species Documentation
- Attachment 9 – Historic Properties Documentation
- Attachment 10 – Section 401 Tier I Water Quality Certification
- Attachment 11 – Texas Coastal Management Program Consistency Statement
- Attachment 12 – Level 1 Stream Condition Assessment and Mitigation Plan [only if mitigation is being proposed]

If you have any questions regarding this PCN and AJD request, please contact Ms. Gloria Wright (Environmental Specialist, Houston District) as the POC for all application correspondence (Gloria.Wright@TxDOT.gov; (123) 456-7899).

Sincerely,

[Name]
District Engineer
TXDOT Houston District

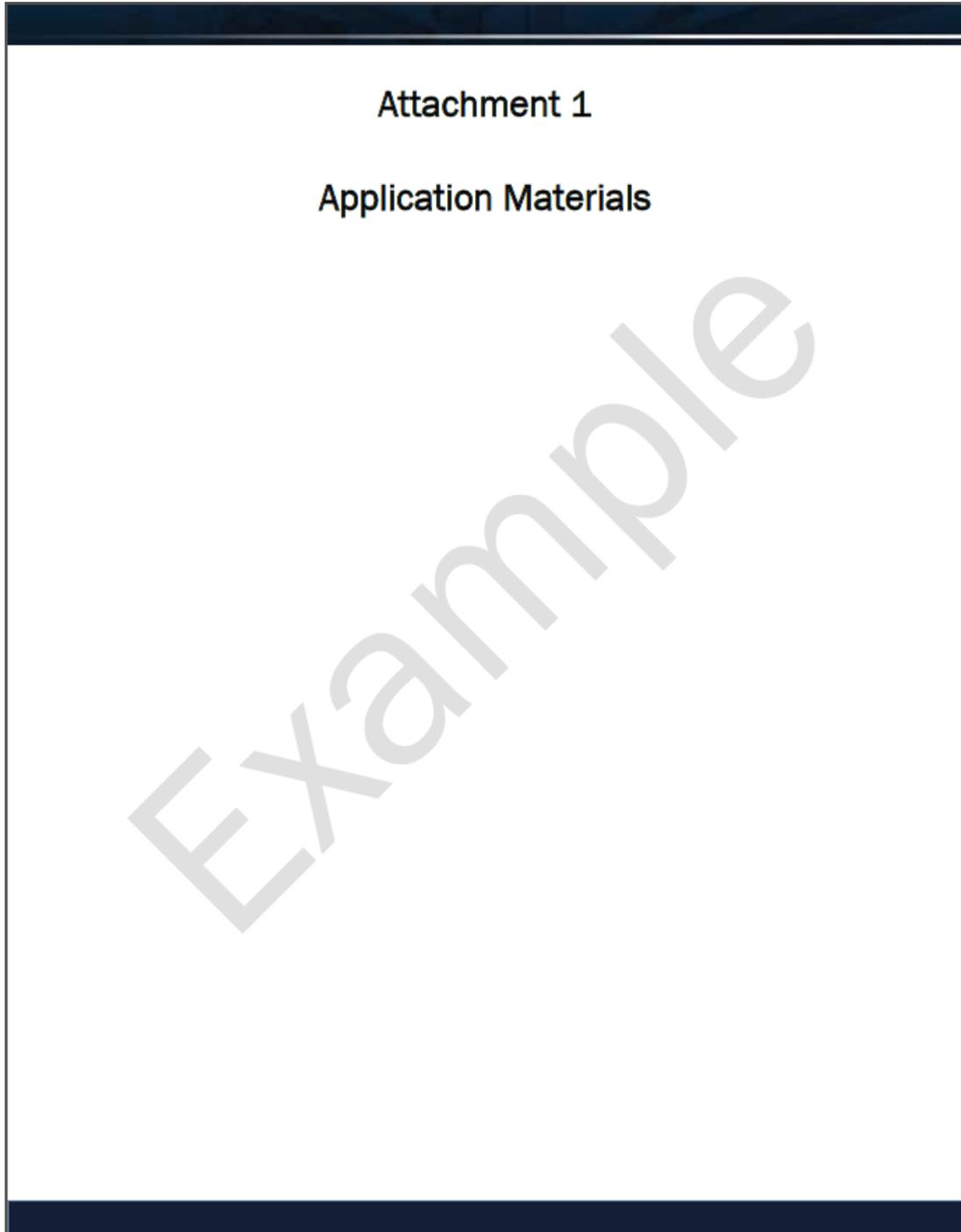
CC: [Key personnel on the project]

Enclosures



Appendix B

Example Cover Sheets





Attachment 2

List of Current Property Owners

Example



Attachment 3

Waters of the U.S. (WOTUS) Delineation Report

Example



Attachment 4

Site Photographs

Example



Attachment 5

Section 404/10 Impacts Table

Example



Attachment 6

Jurisdictional Determination (JD) Request Form

Example



Attachment 7

Drawings/Figures

Example



Attachment 8

Threatened and Endangered Species

Documentation

Example



Attachment 9

Historic Properties Documentation

Example



Attachment 10

Section 401 Tier I Water Quality Certification

Example



Attachment 11

**Texas Coastal Management Program Consistency
Statement**

Example



Attachment 12

Waters of the U.S. (WOTUS)

Conditional/Functional Assessment and

Mitigation Plan

Example



Documentation Standard for USACE Pre-Construction Notification (PCN)

Appendix C

The following table shows the revision history for this document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
April 2020	Version 1 was released.